



BEAZER EAST, INC., 436 SEVENTH AVENUE, PITTSBURGH, PA 15219 USA

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VIA FAX
AND REGULAR MAIL

January 12, 1996

Joseph Cosentino, OSC
Removal Action Branch
Emergency and Remedial Response Division
U.S. Environmental Protection Agency, Region II
2890 Woodbridge Avenue
Edison, NJ 08837

Re: Bayonne Barrel & Drum, Superfund Site

Dear Mr. Cosentino:

By letter dated September 28, 1995 from Kathleen C. Callahan, Director, Emergency and Remedial Response Division, the Koppers Company, Inc. ("Koppers") received a Request for Information Pursuant to Section 104(e) of CERCLA for the Bayonne Barrel & Drum, Superfund Site, 150-154 Raymond Boulevard, Newark, Essex County, New Jersey ("Site"). By agreement of the undersigned and Marc Seidenberg, Esquire, Office of Regional Counsel, U.S. EPA Region II, Koppers' response deadline was extended to January 12, 1996. Koppers herein submits its timely response.

Preliminarily, Koppers notes that certain of the questions contained within the above-referenced Request for Information are objectionable in that they seek information beyond the scope of the U.S. EPA's information gathering and access authority under 42 U.S.C. Section 104(e) ("Section 104(e)"). Realizing full well the breadth of the U.S. EPA's statutory powers, those powers in this context are expressly limited to only the gathering and access of information relevant to:

(A) The identification, nature and quantity of materials which have been or are generated, treated, stored or disposed of at a vessel or facility or transported to a vessel or facility.

(B) The nature or extent of a release or threatened release of a hazardous substance or pollutant or contaminant at or from a vessel or facility.

(C) Information relating to the ability of a person to pay for or to perform a clean-up.



In response to those questions which Koppers believes are not relevant to the above subjects and, therefore, are beyond the scope of the U.S. EPA's information gathering and access authority, Koppers will specify its objections.

Koppers also objects generally to the defined phrases "the Company" and "your Company." Defining those phrases to include all "predecessors - or successors-in-interest and the subsidiaries, divisions, affiliates, and branches of the addressee and their predecessors - or successors - in- interest" makes a majority of the specific Requests overbroad and unduly burdensome. In an effort to clarify the nature and scope of certain such Requests, the undersigned has attempted numerous times to contact the Bayonne Barrel and Drum Hotline, as expressly directed by the 104(e) Request, but none of the undersigned's telephonic messages has been returned. Koppers has therefore conducted an extensive search of its historical files and has of practical necessity limited the scope of its search to operating facilities located in the state of New Jersey and in bordering states. The scope of this Response is accordingly limited to that geographic territory (Koppers has submitted a Freedom of Information Request in order to obtain copies of records in the Agency's possession allegedly linking Koppers to the Site; upon receipt of that information, Koppers will conduct further investigation, if necessary, into this matter).

Finally, also contained in the Request package was a form document styled "Certification of Answers to Request for Information." From Koppers' review of RCRA Section 6927 and CERCLA Section 104(e), it can find no provision or language requiring a notarized certification affirming that the information submitted is true and accurate, under penalty of perjury or otherwise. Accordingly, Koppers respectfully declines to certify this Response. However, in submitting this Response Koppers has made diligent inquiry of any relevant information and a diligent search for potentially relevant documents. The responses provided herein are believed by the undersigned to be true and accurate. Should additional information become available to indicate that any portion of this Response is inaccurate, Koppers will supplement its Response.

RESPONSES

1. General Information About the Company

- a. State the correct legal name of the Company.
- b. Identify the legal status of the Company (corporation, partnership, sole proprietorship, specify if other) and the state in which the Company was organized.
- c. State the names(s) and address(es) of the President and the Chairperson of the Board of the Company.

d. If the Company has subsidiaries or affiliates, or is a subsidiary of another organization, identify these related companies and state the names(s) and address(es) of the President(s) and the Chairperson(s) of the Board of those organizations. Provide such information for any further parent/subsidiary relationships.

e. If the Company is a successor to, or has been succeeded by, another company, identify such other company and provide the same information requested above for the predecessor or successor company.

f. If the Company transacted business with Bayonne Barrel & Drum in the name of an entity not disclosed above, give the name of such entity and state its relationship to the Company.

1. RESPONSE: Koppers Company, Inc. was incorporated in Delaware on September 30, 1944. On June 16, 1988 BNS, Inc. ("BNS"), a Delaware corporation and an indirect wholly-owned subsidiary of Beazer PLC, acquired indirectly more than 90% of the outstanding common stock of Koppers Company, Inc. On November 14, 1988 BNS acquired indirectly the balance of the common shares. On January 26, 1989 the name of Koppers Company, Inc. was changed to Beazer Materials and Services, Inc. ("BM&S"). On April 16, 1990 BM&S changed its name to Beazer East, Inc.

2. Company's Relationship to Bayonne Barrel & Drum

a. State whether the Company or any Company facility transacted any business with Bayonne Barrel & Drum for the disposal, treatment, or storage of any barrels, drums, or other containers (hereinafter collectively referred to as "Containers").

i. If so, describe the relationship (nature of services rendered or products sold to the Company) between the Company and Bayonne Barrel & Drum;

ii. Provide copies of any contracts or agreements between the Company and Bayonne Barrel & Drum;

iii. For each such facility, state the nature of the operations conducted at the facility, including the time period in which the facility operated; and

iv. For each such facility, state its name, address, and current RCRA Identification Number.

b. In addition, if the Company transacted business with Bayonne Barrel & Drum, provide the following information for each transaction:

i. Identify the specific dates of each transaction. Where an exact date cannot be provided for a transaction, provide an approximation by month and year;

ii. Identify the number of Containers that were the subject of each such transaction;

iii. Generically describe each Container that was the subject of each such transaction (example: closed-head steel drums, etc.)

iv. Identify the intended purpose of each such transaction;

v. State whether each Container that was the subject of the transaction contained any substance at the time of the transaction. As to each Container that contained any substance:

(1) Identify each such substance, including its chemical content, physical state, quantity by volume and weight, and other characteristics; and

(2) Provide all written analyses that may have been made for each such substance or which may be in the custody or control of the Company and all material safety data sheets, if any, relating to each such substance;

vi. If you contend that any such Container did not contain any substance at the time of the transaction:

(1) State whether such Container had previously been used by the Company to contain any substance, and if so:

(a) Identify all substances previously contained within such Container, including its chemical content, physical state, and other characteristics; and

(b) Provide as to such substances, all written analyses that may have been made for each such substance or which may be in the custody or control of the Company and all material safety data sheets, if any, relating to each such substance;

vii. Describe in detail any treatment of any Container that may have been performed by or on behalf of the Company prior to the time that the Container was transferred from the Company, including any process or procedure by which the Container was emptied or cleaned;

viii. Provide copies of all documents relating in any way to each transaction, including copies of delivery receipts, invoices, or payment devices;

ix. Identify all persons who might have knowledge of the transaction or who had any responsibility regarding the transaction; and

x. If you sent any Container by means of any third party transporter, identify each such transporter, including the name and address of such transporter, and identify in which of the transactions such transporter acted.

2. RESPONSE: Koppers has no record or other piece of information which indicates or suggests that Koppers transacted any business with Bayonne Barrel & Drum for the disposal, treatment, or storage of any barrels, drums, or other containers. To the best of Koppers' knowledge and belief, Koppers did not manage, use, purchase, store, treat, dispose, transport or otherwise handle any materials at or to the Site. By way of further response, Koppers did not arrange for the treatment, transportation or disposal of any hazardous materials or substances at or to the Site.

3. Identify any other person (e.g., individual, company, partnership, etc.) having knowledge of facts relating to the questions which are the subject of this inquiry. For each such person that you identify, provide the name, address, and telephone number of that person, and the basis of your belief that he or she has such knowledge. For past and present employees, include their job title and a description of their responsibilities.

3. RESPONSE: Koppers incorporates its response to Request No. 2 above.

4. Identify each person consulted in responding to these questions and correlate each person to the question on which he or she was consulted.

4. RESPONSE: Edward O'Connell, Esquire
Mary Holland
Beazer East, Inc.
436 Seventh Avenue
Pittsburgh, PA 15219

5. Provide a list of all insurance policies and indemnification agreements held or entered into by you that may indemnify you against any liability that you may be found to have under CERCLA. Specify the insurer, type of policy, effective dates, and state per occurrence policy limits for each policy. Copies of policies may be provided in lieu of a narrative response. In response to this request, please provide not only those policies and agreements that are currently in effect, but also those in effect since your company began sending Containers to the Site.

5. RESPONSE: Koppers objects to this Request as being overly broad and unduly burdensome in that it solicits information concerning insurance coverage without first establishing that Koppers is, in fact, a liable or potentially liable party with respect to the conditions which have been alleged to exist at the Site, and for what year(s) the alleged activities, if any, are alleged to have occurred. Subject to and without waiving the foregoing objections, Koppers will provide information responsive to this Request, if any exists, once a nexus between Koppers and the Site has been established.

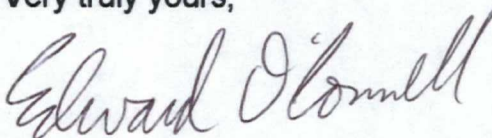
6. State whether there exists any agreement or contract (other than an insurance policy) which may indemnify the Company, present or past directors, officers or owners of shares in the Company, for any liability that may result under CERCLA. Provide a copy of any such agreement or contract. Identify any agreement or contract that you are unable to locate or obtain.

6. RESPONSE: Koppers objects to this Request as being overly broad and unduly burdensome in that it solicits information concerning the indemnification rights of Koppers without first establishing that Koppers is, in fact, a liable or potentially liable party with respect to the conditions which have been alleged to exist at the Site. Subject to and without waiving the foregoing objections, Koppers will provide information responsive to this Request, if any exists, once a nexus between Koppers and the Site has been established.

7. Supply any additional information or documents that may be relevant or useful to identify other sources who disposed of or transported Containers to the Site.

7. RESPONSE: Koppers has no information responsive to this Request.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Edward O'Connell", written in a cursive style.

Edward O'Connell

cc: Marc Seidenberg, Esquire